

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 376 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME TAX

Versus

S G JHALA

Appearance:

Mr. B.B.Naik for MR MANISH R BHATT for Petitioner

Mr. Manish Shah for Mr. J.P. Shah for the Respondent

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 02/05/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question for the opinion of this Court under section 256(1) of the Income-tax Act, 1961.

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the charging of interest at the lower rate than the market rate by an employer is not a perquisite in terms of section 17(2)(iii)(c) of the Income Tax Act, 1961 ?"

2. Similar question was referred in ITR No. 358 of 1983 and by our judgment dated 1.5.1998, we have held that charging of interest at lower rate than the market rate by an employer was not a perquisite in terms of section 17(2)(iii)(c) of the Act. For the same reasons as we have given in that decision, we answer the question referred in this Reference in the affirmative against the revenue and in favour of the assessee. The Reference stands disposed of accordingly with no order as to costs.

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